

(Del. Rev. 12/98)

FILED
U.S. DISTRICT COURT
PH 1:25

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DEMETRICE Smith

(Name of Plaintiff or Plaintiffs)

08 - 507

v.

CIVIL ACTION No. _____

Simms Associates

(Name of Defendant or Defendants)

COMPLAINT UNDER TITLE VII
OF THE CIVIL RIGHTS ACT OF 1964

1. This action is brought pursuant to *Title VII of the Civil Rights Act of 1964*, as amended, for **employment discrimination**. Jurisdiction exists by virtue of 42 U.S.C. §2000e-5. Equitable and other relief are also sought under 42 U.S.C. §2000e-5(g).

2. Plaintiff resides at 111 DANFORD DR.

(Street Address)

EIKTON

(City)

MD

(County)

21921

(State)

(Zip Code)

410-398-0364

(Area Code) (Phone Number)

3. Defendant resides at, or its business is located at 800 Pencader DR.

(Street Address)

Newark

(City)

N/C

(County)

DE

(State)

19702

(Zip Code)

4. The discriminatory conduct occurred in connection with plaintiff's employment at, or application to be employed at, defendant's Simms Associates place of business

(Defendant's Name)

located at 800 Pencader DR.

(Street Address)

NEWARK

(City)

(County)

DE

(State)

19702

(Zip Code)

5. The alleged discriminatory acts occurred on 9 , 08 , 2007 .
 (Day) (Month) (Year)

6. The alleged discriminatory practice ☒ is ☐ is not continuing.

7. Plaintiff filed charges with the Department of Labor of the State of Delaware,
DEPT OF LABOR 4425 N. market Wilmington
 (Agency) (Street Address) (City)
Wilmington DE 19802 , regarding
 (County) (State) (Zip Code)
 defendant's alleged discriminatory conduct on 9 , 08 , 2007 .
 (Day) (Month) (Year)

8. Plaintiff filed charges with the Equal Employment opportunity Commission of the United States
 regarding defendant's alleged discriminatory conduct on: 13 , 8 , 2007 .
 (Day) (Month) (Year)

9. The Equal Employment Opportunity Commission issued the attached Notice-of-Right-to-Sue letter
 which was received by plaintiff on: 17 , 5 , 2008 .
 (Day) (Month) (Year)

(NOTE: ATTACH NOTICE-OF-RIGHT-TO-SUE LETTER TO THIS COMPLAINT.)

10. The alleged discriminatory acts, in this suit, concern:

- A. ☐ Failure to employ plaintiff.
- B. ☒ Termination of plaintiff's employment.
- C. ☐ Failure to promote plaintiff.
- D. ☒ Other acts (please specify below)

1) WRONGFUL TERMINATION

2) HARASSMENT

11. Defendant's conduct is discriminatory with respect to the following:

- A. ☒ Plaintiff's race
- B. ☐ Plaintiff's color
- C. ☐ Plaintiff's sex
- D. ☐ Plaintiff's religion
- E. ☐ Plaintiff's national origin

12. A copy of the charges filed with the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of plaintiff's claim.

13. If relief is not granted, plaintiffs will be irreparably denied rights secured by Title VII of the 1964 Civil Rights Act, as amended.

14. Plaintiff's has no adequate remedy at law to redress the wrongs described above.

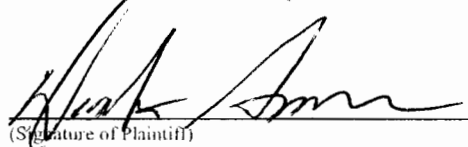
THEREFORE, Plaintiff prays as follows: (Check appropriate letter(s))

- A. ☐ That all fees, cost or security attendant to this litigation be hereby waived.
- B. ☐ That the Court appoint legal counsel.
- C. ☒ That the Court grant such relief as may be appropriate, including injunctive orders, damages, cost and attorney's fees.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____

8/11/2008


(Signature of Plaintiff)

(Signature of additional Plaintiff)

(Del. Rev. 12/98)

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

DEMETRICE Smith
(Name of Plaintiff or Plaintiffs)

v.

CIVIL ACTION NO. _____

Simm Associates
(Name of Defendant or Defendants)

COMPLAINT

1. This action is brought pursuant to _____
(Federal statute on which action is based)
for discrimination related to RACE, HARRASSMENT jurisdiction exists by virtue of
(In what area did discrimination occur? e.g. race, sex, religion)

(Federal statute on which jurisdiction is based)

2. Plaintiff resides at 111 DANFORD DR.
(Street Address)
ELKTON Cecil MD 21921
(City) (County) (State) (Zip Code)
410-398-0364
(Area Code) (Phone Number)

3. Defendant resides at, or its business is located at 800 Pencader Drive
(Street Address)
NEWARK New Castle DE 19702
(City) (County) (State) (Zip Code)

4. The alleged discriminatory acts occurred on 8, 9, 2007
(Day) (Month) (Year)

5. The alleged discriminatory practice ☒ is ☐ is not continuing.

6. Plaintiff(s) filed charges with the Dept. OF LABOR
 (Agency)
4425 N MARKET Wilmington DE 19802
 (Street Address) (City) (County) (State) (Zip)
 regarding defendant(s) alleged discriminatory conduct on: 8/9/2007
 (Date)

7. Attach decision of the agency which investigated the charges referred in paragraph 6 above.

8. Was an appeal taken from the agency's decision? Yes ☐ No ☒

If yes, to whom was the appeal taken? _____

9. The discriminatory acts alleged in this suit concern: (Describe facts on additional sheets if necessary)

ON 8/9/2007 Female worker MADE A
Racial Remarks AND THREATS ME. Because OF the
incident the next I HAD to moved to another
department or Be FIRED, AND COULD NOT go
over to that department even though I HAD
Business ACCOUNT over in the same department.
After, Filing COMPLAINT WAS HARASSED several times
til get FIRED Sept. 4, 2007 / ADDTL FACTS

10. Defendant's conduct is discriminatory with respect to the following:

- A. ☒ Plaintiff's race
- B. ☐ Plaintiff's color
- C. ☒ Plaintiff's sex
- D. ☐ Plaintiff's religion
- E. ☐ Plaintiff's national origin

11. Plaintiff prays for the following relief: (Indicate the exact relief requested)

~~Re~~ Reimbursement 2 years salary +

Bonus, loss of Bonus money

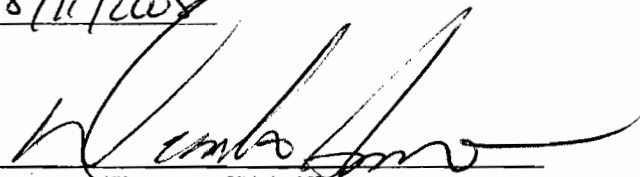
AND loss of Attorney, legal fees cost

of COURT Fee.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: _____

8/11/2008



(Signature of Plaintiff)

Summary Reports of Harassments and Several Incidents of Firing Attempts

5/17/07 The manager said I was 5 minutes late from my break. I told her I was not late from break I did not want to get in and argument with the manager, I told her could I make up the time for 5 minutes and she said no that was an occurrence. I told her the company policy said employee could make up the time in the same day; I was willing to work late stay after 5 minutes or come back from lunch earlier. She said up to the manger, and I know my previous employees she did not give other employees hard time about making up time. I believe because I spoke up the manger (Kim) gave me a hard time. She would follow me to the outside to make sure what time I was due back, she would make she I was sitting at my desk doing my work, I could not ask question until end of the day had to write them down and give to her, I would have to stay on the dialer and I could not follow my money. But other employees she did not give hard time with. The manager and me had several meeting she said I was doing my thing and there would be some write-ups if I continue. I told her I had collection experience before and do not need her to be on my back all the time. After, two weeks of these harassments I had enough. I was going to quite but I ask and employee I knew what to do name Eric Fox to ask the owner to moved me so he did I was moved to target on 5/29/2007. I had a good two weeks with no problems with the new manager. I work the whole month of June with no problems I thought.

6/25/20007 On June 29th I was been sent with my general manager (Chuck Kim) to the human resource department. I was told I was going to be terminated from work. I told her why I was being terminated because I never received

anything in writing or never had any complaints with my department manager (Chris Higgins) of my job performance and beside I have the general manager in the office with me did he knew my job performance it was not meeting my numbers. I told her was 6000 dollars and 1500 dollars away from my standard so that was bull!! Wendy look at the report and check the standing with other employees and the numbers, she then said you have 3 occurrence too many in 90 days probation I told her I do not have that many occurrence and why did the manager bought it to my attention if I did and she need to check that again. She said you received a write up for the two days in May and on 6/6/2007 you received a write up for that date I told her what!!! You talking about I gave you note I was in jail. she knowledge the note. Then she said Chris your manger wrote you up because you did not work your schedule I told her I work the whole shift, she said you was schedule to work a split shift. The human resource manager moved me to the conference room and talked to the other manager. She called me back explain to me more in detailed. The human resource manager said there was a computer error in the system you have 2 occurrence not 3. And the write up for 6/6/2007 stand. I told her I do not agree with the write up and why was I not written up that day 6/6/2007 not today 6/25/2007 and my performance for review she have be discussed before I came to the human resource department not today. After this day the manager gave me hard time about my job performance and find every means of me not to hit my number. The manager (Chris) would not let me follow my money, gave me several verbal of not following rules do your own things, and the same thing I was told not to do other employees were doing the same thing nothing was said about them, he tried several times make me quite. The manager would talking down to me like I was stupid

or would not ask my questions said I was asking too many questions and get back on the dialer and work.

6/29/2007

On the same day I was called back to the Human Resource office again but this time I was being written up with sexual harassment another employee Jamie Phillips and I was supposed to keep it in the office and don't mention nothing about the incident I told them I do not know what you talking about and I am very professional with people on the job and know how to conduct myself at work. Wendy hr manager said Jamie did not want to get you in trouble. And I did not know what she talking about or do I know whom Jamie Phillips is. I left the office and I found out whom Jamie Phillips is and did not speak to her for about 2 weeks until she came to me. And I said I was not supposed to speak to her because of the harassment charge. She told me she did not excuse me any such thing and the complaint must come for the general manager Chuck Kim and Misty Wright because the general manager called her into the office and tried several times to get her to tell him that Demetrice Smith sexual harassed her and she said he did not harassed me and I do not want to discussed the issue anymore. She said it got very bad in the office and made her mad because the general manager wanted her to report it to the human resource. I told the general manager I would not report that because it was not true. She told me for some odd reason that this company did not like me.

8/09/2007

on the 29th I got into and argument with another employee. I was talking to Alice Clifton, Kathleen Scott, Fred Frazier and William Taylor about cigarettes smoke how dangerous that can be and usually if parents smoke

then children sometime follow and another employee named Misty Wright got right into the discussion and said her parents smoke and get high and you do not know what u talking about, I in turn said you should not say that too loud. She cursed me out and said, “ my dad is a pagan and he would come to the job and found you and blow your fucking head off. I told her I do not care about her dad if he was part of the Klan she got louder, kept repeating what her dad was I call him right now if you messed with me I told her this is going too far and I was not talking to her. She got louder and the general manager came out of the office and talk to her and she repeated the same thing again. “I would get my dad to blow his fucking head off!!” The general manager told us to go home and come back on Aug 10th to see what can be done. I left came back to work again on August 10th I was moved from target with several verbal writes did not know anything out these writes up I ask the manager why I was being moved. The manager Wendy said because “ she was more valuable than me.” I told her what she means. She said she was more valuable and you are going to another team FAMMS manager Mike Ouellete. I told her why I was going to be moved she threaded me so what you going to me moved, I told her if that was other way round I would not have a job. She kept saying that is our decision.

I have found out among other employee Misty have not meet standard for 3 months and nothing was done, standard in target is 7500.00 I came on the floor with no previous money and almost hit the stand 7000.00 and when I left the target my numbers were just 400.00 off first week stats in August.

After I started my new team I was banned from target unless job related issue only because I had target accounts in my que.

Over the several weeks on FAAM I had to changer my schedule from working 4 splits shifts. To 2 splits shifts all together told mike manager that I need my split shifts. And that would not stop me from hitting my numbers, he said so if you complaining go to Brad owner about the situation. I tried to talk to Mike but he just brushed me off and treated me with no respect tried to write me up for no reason of being late. I proved to him my time and the decision was reversed. He harassed me several times about working my accounts and not at my desk. And this has gone on several times. But I ignore what he was trying to do.

9/01/2007 I came on Saturday and work 2 hours and collected 800.00 and mike the manager was supposed to put and account in my que. He gave me a hard time and told me to get on the dialer and he was not moving any accounts put it on the clipboard. I told him the check was going to post today and need the account in my que. He said he would get it another time get back on the dialer or I will write you up. Usually if checks going to post same day the account would have to post in your que. The manger has not given other employees this hard time about accounts. I do not understand why this manager is giving me a hard time with this account and talk to me any kind of way with no respect.

9/04/2007 I came back into the office at work earlier than usual 2pm I check the account again and it was not in my que the account went to the company instead I told him about it got mad because I was question him and you need to get on the dialer and stop complain about accounts. I told him I need to closed some accounts and would take me sometimes he said I

going to write you up and you are not to work target accounts in your que. I told him I had those accounts and you are not going to remove those accounts from me. we had argument. About not moving the accounts, and I told him why you give me a hard time when you moved accounts to other employees que he said not this time. I waited later on 7pm when I getting ready to leave he was gone and the account was not moved, I went over to brad office the general manager he was not there and then I went over to the manager office Chuck Kim and he was on the phone. The manger got very mad at me and wanted to see me in the office. I told him I would come back tomorrow because I was leaving he insisted I waited for him finished talking on the phone for another 7 minutes I told him I would see him tomorrow he got mad hung up the phone and told me to go in the office he tried to explain to him what I wanted he did not want to her that shut up, started to curse me out. I told him was not your kid and I am leaving he said no. He calls the general manager over to the office Brad and said he told Brad he was not supposed to be over here. I told him I have a target account and you are making a big deal. And I did not see Brad and would not have came over here if he was here, Chuck kept yelling at me and said I don't care. I told Brad this manger is disrespecting me and I would not tolerate that. Brad kept saying he was not supposed to be over her, I told him is business so what. I said why is your company giving me a hard time if it was I threaded and employee at SIMMs I would not be here talking to you. Chuck and Brad told me to go home and come back tomorrow to see what can be done. I told Brad I just wanted and account in my que before it goes to the house. He said come back tomorrow.

7/05/2007 I was under great distressed I call to work and said I was going to be late. Brad(owner) told me to talk to Wendy first HR manager and I was not able to get hold of Wendy and around 3pm I called and talk to Brad the and was told I was terminated for in subornation at work. I told him what I was just wanted account in my que he said you fired and that is that talk to Wendy on Thursday.

I feel this company have lots of issue with employees and if you speak up for yourself then that is trouble .The company does not care what they do all the manger and hr manger said this is at will state, we can fired anytime. My experience at Simms Associates had been a bad one, and the company has different rules for different people and for BLACKS rules are different and continue harassment experience with this company had been a bad one. I hope no other employee would have to go thought this harassment like I did.

Aug-11-08 11:03am From=EEOC STATE & LOCAL PROGRAMS

T-974 P.002/002 F-201

EEOC Form 161 (2/08)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Demetrice Smith
111 Danford Dr.
Elkton, MD 21921

From: Philadelphia District Office
801 Market Street
Suite 1300
Philadelphia, PA 19107



On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR §1601.7(a))

EEOC Charge No.	EEOC Representative	Telephone No.
17C-2007-01247	Charles Brown, III, State & Local Coordinator	(215) 440-2842

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:



The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.



Your allegations did not involve a disability as defined by the Americans With Disabilities Act.



The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.



Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.



The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.



The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.



Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission
Marie M. Tomasso

May 12, 2008

Enclosures(s)

Marie M. Tomasso,
District Director

(Date Mailed)

cc: SIMM ASSOCIATES

Erica N. Finnegan, Counsel
CROSS & SIMON, LLC
913 N. Market St., 11th Fl.
PO Box 1380
Wilmington, DE 19899

410-620-2480 = FAX. 1.75 - 1.25



510-620-2425
FAX

215-410-2601
510-620-2425

STATE OF DELAWARE DEPARTMENT OF LABOR
DIVISION OF INDUSTRIAL AFFAIRS
4425 N. MARKET STREET
WILMINGTON, DE 19802
(302) 761-8200 / FAX: (302) 761-6601

September 10, 2007

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Personnel Manager
SIMM ASSOCIATES
800 Pencader Drive,
Newark, DE 19702

RE: Smith v. SIMM ASSOCIATES
Case No. 07090478W(17C-2007-01247)

Dear Respondent:

Enclosed please find a **NOTICE OF CHARGE OF DISCRIMINATION**, along with the following documents:

1. Verified Charge of Discrimination filed against the above-named Respondent;
2. Mediation interest form;
3. Copy of 19 Del. Code § 712 (c), describing the administrative process.

Pursuant to 19 Del. Code § 712 (c), the named Respondent has an opportunity at this time to "file an answer **within twenty (20) days of the receipt of the Charge of Discrimination**, certifying that a copy of the answer was mailed to the Charging Party at the address provided." **If you are interested in mediation, you do not need to file an answer at this time. If you elect this option you must check the appropriate provision on the enclosed Invitation To Engage in Mediation and return it to us in lieu of your answer.**

This Charge of Discrimination has been filed under the following law(s), and as indicated by the case numbers referenced above.

<input checked="" type="checkbox"/> Title VII	<input checked="" type="checkbox"/> DE Discrimination in Employment Act
<input type="checkbox"/> ADA	<input type="checkbox"/> DE Handicapped Persons Employment Protection Act
<input type="checkbox"/> ADEA	

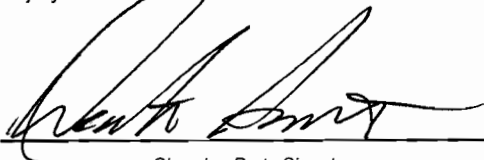
We anticipate your full cooperation. If you intend to retain legal representation at any time throughout this process, please have your attorney enter his or her appearance so that future contact will be made through him or her.

Julie Cutler

Julie Klein Cutler, Administrator,
Discrimination Program

cc: Charging Party (w/o enclosures)

EEOC Form 5 (5/01)

CHARGE OF DISCRIMINATION This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.		Charge Presented To: Agency(ies) Charge No(s): <div style="display: flex; justify-content: space-between;"> <div> <input checked="" type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC </div> <div style="text-align: right;"> 070904784 17C-2007-01247 </div> </div>	
Delaware Department of Labor and EEOC <i>State or local Agency, if any</i>			
Name (indicate Mr., Ms., Mrs.)		Home Phone (Incl. Area Code)	Date of Birth
Mr. Demetrice Smith		(302) 994-3659	03-21-1965
Street Address		City, State and ZIP Code	
111 Danford Dr., Elkton, MD 21921			
Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency That I Believe Discriminated Against Me or Others. (If more than two, list under PARTICULARS below.)			
Name		No. Employees, Members	Phone No. (Include Area Code)
SIMM ASSOCIATES		201 - 500	(302) 283-2800
Street Address		City, State and ZIP Code	
800 Pencader Drive, Newark, DE 19702			
Name		No. Employees, Members	Phone No. (Include Area Code)
Street Address		City, State and ZIP Code	
DISCRIMINATION BASED ON (Check appropriate box(es).)		DATE(S) DISCRIMINATION TOOK PLACE	
<input checked="" type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (Specify below.)		Earliest Latest 08-09-2007 08-09-2007	
		<input checked="" type="checkbox"/> CONTINUING ACTION	
THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)): Jurisdiction: Charging Party works for Respondent as a Collector in DE. He was transferred off of his team on 8/9/07 Charging Party's protected class: Race (Black); Sex (male) Adverse employment action: Re-Assignment; Terms and Conditions Brief statement of allegations: Charging Party alleges that Respondent subjected him to disparate treatment and adverse terms and conditions based on his race and sex. Charging Party claims that despite his good production rate, Respondent (Chuck Kim, HR Asian, /male) falsely accused him of sexual harassment against his co-worker (Jamie Phillips, b/f) and initiating a confrontation against his other co-worker (Missy Wright, w, f). Although both allegations were addressed and found to be unsubstantiated, Respondent chose to re-assign Charging Party to another department and retain Ms. Wright without proper discipline for her racial remarks and threats that Ms. Wright's father was part of a pagan racist group that would blow his "F...ing head off" against Charging Party blatantly in front of staff. Charging Party asked the HR manager (Wendy w/f) why he was being made to move. Consequently, Respondent told Charging Party that Missy was more valuable without regarding their work performances. Respondent's explanation: None given Applicable law(s): Title VII of the Civil Rights Act, as amended; Delaware Discrimination in Employment Act, as amended Comparator(s) or other specific reason(s) for alleging discrimination: Charging Party was transferred to another, less lucrative position after being involved in a dispute with a white female coworker. Charging Party and white female coworker had similar production value, and the dispute involved greater culpability on the part of the white female co-worker. However, Charging Party claims he was disciplined more harshly than his similarly situated white co-worker. Charging Party claims that Respondent has scrutinized his work and targeted him for discharge based on his race, sex and internal complaint regarding Ms. Wright.			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY - When necessary for State and Local Agency Requirements	
I declare under penalty of perjury that the above is true and correct.		I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief. SIGNATURE OF COMPLAINANT	
Sep 05, 2007 Date		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE (month, day, year)	
 Charging Party Signature			

EEOC Form 5 (5/01)

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.

Charge Presented To:

Agency(ies) Charge No(s):

☒ FEPA

07090478 W

☒ EEOC

17C-2007-01247

Delaware Department of Labor

and EEOC

State or local Agency, if any

THE PARTICULARS ARE (If additional paper is needed, attach extra sheet(s)):

I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

NOTARY – When necessary for State and Local Agency Requirements

I declare under penalty of perjury that the above is true and correct.

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Sep 05, 2007

Date

Charging Party Signature

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(month, day, year)

NOTARY PUBLIC, STATE OF DELAWARE
My Commission Expires 1/26/09



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Philadelphia District Office

8-5pm
 8-3pm old
 STR...
 B...
 photo ID
 801 Market St.
 Penthouse Ste. 1300
 Philadelphia, PA 19107
 (215) 440-2600
 TTY (215) 440-2610
 FAX (215) 440-2632, 2848 & 2604

EEOC Charge No.: 17C-2007-01247 **Date:** September 10, 2007

Your charge of employment discrimination as filed with the Labor Law Enforcement Section of the Delaware Dept. of Labor (DDOL) will also be forwarded to the Philadelphia District Office of the U.S. Equal Employment Opportunity Commission (EEOC) for dual filing. This dual-filing is done in order to preserve your federal rights as explained below. The EEOC charge number will be assigned by the DDOL in addition to DDOL's own charge number. This letter, which will be sent to you by the DDOL, constitutes your notification of the dual-filing with EEOC. The Respondent named in your charge will also be notified by DDOL of the dual-filing with EEOC.

The EEOC will refrain from any processing of your charge until such time as the DDOL completes its processing and issues final findings and orders. At that time, the DDOL will notify the EEOC of the closure so that EEOC can review the DDOL finding. Those final findings and orders may be adopted by EEOC and the EEOC case would then be closed based on the DDOL proceedings.

However, under Section 1601.76 of EEOC's regulations, you are entitled to request that EEOC perform a Substantial Weight Review of the DDOL's final finding. To obtain this review, you must request it by writing to EEOC within 12 days of your receipt of DDOL's final finding in your case. Otherwise, EEOC will generally adopt the DDOL's findings.

To request the Substantial Weight Review, you should address your request to the address shown in the letterhead above, to the attention of the State and Local Unit. In addition, you should provide as much specific detail as possible as to why you are dissatisfied with the DDOL investigation or finding.

While your charge is being investigated by the DDOL, you should address any concerns or additional information concerning your charge or the DDOL investigation directly to the DDOL. This will ensure that such concerns or information are provided to the appropriate person(s). Please do not contact EEOC directly as EEOC will not be able to assist you while the charge is being processed by DDOL. Also, please do not submit documents or evidence to EEOC since DDOL will be actively investigating the charge and will maintain the active case file.

The dual-filing of the charge with EEOC will preserve your rights to file a private lawsuit in federal district court as follows:

a. If your charge is filed under Title VII of the Civil Rights Act of 1964, as amended (Title VII) (that is, based on race, sex, color, religion or national origin) or under the Americans with Disabilities Act of 1990, as amended (ADA) (that is, based upon mental or physical disability), you can only file a lawsuit in Federal Court if EEOC first issues you a Notice of Right to Sue. To obtain such a Notice, you must wait for 240 days from the date you filed your charge with DDOL. You must thereafter make a written request for issuance of the Notice of Right to Sue. This request can be sent directly to EEOC at the address shown in the letterhead above or you can send the request to the DDOL for forwarding to EEOC. Upon its receipt, EEOC will issue you the Notice of Right to Sue and you would have 90 days in which to file suit. The issuance of the Notice of Right to Sue will normally result in EEOC terminating all further processing.

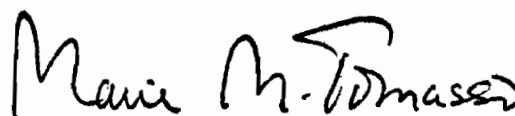
b. If your charge is filed under the Age Discrimination in Employment Act of 1967 as amended (ADEA), (that is, based on age 40 or older), you do not have to request a Notice of Right to Sue from EEOC if you wish to file a lawsuit in Federal Court. Instead, you must wait at least 60 days from the date you filed your charge with the DDOL regardless of the status of the DDOL or EEOC processing. Thereafter, you can file a private lawsuit directly in Federal Court without first contacting EEOC in any manner.

If based upon EEOC's review of DDOL's final finding, the EEOC determines that the finding should be accepted as the basis for EEOC's closure, you will be so notified in writing. If the DDOL closure is for any reason other than a successful settlement or a withdrawal, the EEOC closure will also include a Notice of Right to Sue. This applies to charges filed under Title VII, the ADA and/or the ADEA. In such an event, you would then have 90 days from the date of your receipt of the Notice of Right to Sue to file suit in federal district court.

EEOC's regulations require that you notify EEOC of any change in address and keep us informed of any prolonged absence from your current address. However, if the DDOL is still processing your charge, you should forward any such notification or change of address directly to the DDOL. You should also cooperate fully with the DDOL in its processing of your charge.

Should you contact EEOC to request a Substantial Weight Review or to request a Notice of Right to Sue, please include the EEOC Charge Number shown at the top of page 1 in your correspondence to EEOC.

Sincerely,

A handwritten signature in black ink that reads "Marie M. Tomasso". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Marie M. Tomasso
District Director

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

DEMETRICE Smith

(b) County of Residence of First Listed Plaintiff

New Castle

(EXCEPT IN U.S. PLAINTIFF CASES)

111 DANFORD DR.

EIKTON, MD 21921

(c) Attorney's (Firm Name, Address, and Telephone Number)

DEFENDANTS

Simms Associates

County of Residence of First Listed Defendant

New Castle

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State ☐ PTF 1 ☒ DEF 1
- Citizen of Another State ☒ 2 ☐ 2
- Citizen or Subject of a Foreign Country ☐ 3 ☐ 3
- Incorporated or Principal Place of Business In This State ☐ 4 ☐ 4
- Incorporated and Principal Place of Business In Another State ☐ 5 ☐ 5
- Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

8/11/2008

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____